



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

KIRT REPP DC
PO BOX 9973
THE WOODLANDS TX 77387

Respondent Name

AMERICAN ZURICH INSURANCE CO

Carrier's Austin Representative

Box Number 19

MFDR Tracking Number

M4-12-2499-01

MFDR Date Received

MARCH 30, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Please note, we have documented that the patient sustained a soft tissue injury to the left knee and that the carrier found this same injury to be, in fact, compensable. We have also shown that the ICD-9 diagnosis code on our related CMS 1500 represented a soft tissue injury to the knee...The carrier has denied this claim due to 'Extent of injury...' and I have proven that our electrodiagnostic evaluation focused on the compensable left knee soft tissue injuries and was medically necessary in order to confirm/exclude neuropathology resulting from the above described work-injury. The left knee soft tissue injuries were not disputed and are documented as compensable in the PLN-11. All the muscles that were sampled via EMG and the nerves that were recorded via NCS can be found as medically necessary in almost any quality neurophysiologic text with respect to peripheral neuropathy investigation."

Requestor's Supplemental Position Summary: "We are responding to the carriers' 04-16-2012 letter regarding MFDR tacking # M4-12-2499-01. The carrier basically states that '...the treatments underlying the charges in dispute were for body parts and/or conditions not related to the compensable injury.' and '...according to the recent attached Travis County district court decision, it is beyond the scope of practice for a chiropractor to perform needle EMG testing.' I find both of these statements in direct contradiction of the facts I have provided...Since our testing is centered around this compensable diagnosis as evidenced by the bottom of page #2 and the top half of page #3 of our 03-31-2011 EMG-NCS report, I would point out that the carrier has not argument regarding our medically necessary services and the compensable body parts...the adjudication of this dispute would be based on the scope of practice at the time of service not some possible scope of practice difference in the future."

Amount in Dispute: \$3,355.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The EOBs raise underlying issues of causal relation. In particular, the EOBs indicate that the treatments underlying the charges in dispute were for body parts and/or conditions not related to the compensable injury. Attached is a copy of the carrier's dispute information indicating that the condition for which Claimant is being treated is not related to the compensable injury. Also attached is the DWC decision and order excluding various conditions from the compensable injury."

Response Submitted By: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 31, 2011	CPT Code 99203	\$200.00	\$0.00
	CPT Code 95860	\$375.00	\$0.00
	CPT Code 95934-50	\$250.00	\$0.00
	CPT Code 95903 (X4)	\$295.00/each	\$0.00
	CPT Code 95904 (X6)	\$225.00/each	\$0.00
TOTAL		\$3,355.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets forth general provisions regarding dispute of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §141.1 sets out the procedures for requesting and setting a Benefit Review Conference.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 219-Based on extent of injury.
 - 852-Payment disallowed. Extent of injury not finally adjudicated.

Issues

1. Has the extent of injury issue been resolved?
2. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §133.305(a)(4) defines a medical fee dispute as a dispute that involves an amount of payment for non-network health care rendered to an injured employee (employee) that has been determined to be medically necessary and appropriate for treatment of that employee's compensable injury. 28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021." 28 Texas Administrative Code §133.307(e)(3)(H) requires that if the carrier has raised a dispute pertaining to compensability, extent of injury, or liability for the claim, the Division shall notify the parties of the review requirements pursuant to §124.2 of this title, and will dismiss the request until those disputes have been resolved by a final decision, inclusive of all appeals. The appropriate dispute process for unresolved issues of compensability, extent and/or liability requires filing for a Benefit Review Conference pursuant to 28 Texas Administrative Code §141.1 prior to requesting medical fee dispute resolution.

A Contested Case Hearing was held and a decision was ordered on May 10, 2011 that found that "The April 1, 2010 compensable injury does not extend to include aggravation of lumbar disc disease at L2-L3, L3-L4, and L4-L5, left hip contusion, aggravation of degenerative joint disease in the left knee, bicep strain of the right shoulder, closed head injury, post-traumatic headaches, neck spasms, cervical strain and cervical radiculitis." The Division finds that the extent of injury dispute is resolved.

2. A review of the submitted nerve studies report finds under the heading "Impression: 1. There is electrophysiologic evidence most consistent with active lumbar radiculopathy involving the left L4 and left L5 nerve root levels." Further, the diagnosis lists "Paresthesia/muscle weakness, left lower extremity. See exam.

Lumbar spine sprain/strain injuries...Lumbar radiculopathy.” The Division find that the treatments in dispute were rendered for an injury found not compensable according to Contested Case Hearing discussed above. The requestor rendered health care to this injured employee for non-compensable injuries; therefore, no reimbursement can be recommended for the services in dispute.

Conclusion

For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

_____	_____	<u>9/16/2013</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.